

SENATE BILL 2388  
By Tracy

AN ACT to enact the Bedford County Tax on the privilege of new construction.

WHEREAS, Bedford County, Tennessee has experienced considerable growth in its population and the need for services and public facilities; and

WHEREAS, anticipated continued growth is expected to accelerate; and

WHEREAS, the county's present revenue raising authority is limited and relies heavily on intergovernmental transfers, which are not subject to county control, and on property taxes, which would impose the costs of new growth upon existing residents rather than on new residents creating the demand for the additional expenditures, and

WHEREAS, Bedford County is prepared to impose a fair, equitable and reasonable share of the costs of providing the necessary school facilities and services on existing residents of the county; and

WHEREAS, the county's present population, employment base, tax base, and budget cannot alone support the additional revenues needed to supply facilities to serve new growth without a substantial increase in the property tax rate on existing development; and

WHEREAS, the continued expansion represents both an extraordinary economic opportunity for the State of Tennessee as well as a potential economic burden on the existing residents of Bedford County; and

WHEREAS, due to these unique circumstances, it is necessary and appropriate that Bedford County be given authorization to extend its taxing power to enable the county to impose a fair and reasonable share of the costs of public facilities necessitated by new

development on that development so as not to create an unfair and inequitable burden on existing county residents; and

WHEREAS, there is a precedent in the State of Tennessee for such additional tax measures to impose costs on those who benefit from improvements and where the result would otherwise be to impose an unfair burden on existing residents; and

WHEREAS, the most logical and effective mechanism to accomplish the intended result would be the imposition of a new privilege tax on new development in Bedford County, now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act shall be known and may be cited as the "Bedford County Tax on the Privilege of New Construction".

SECTION 2. As used in this act, unless a different meaning appears from the context:

(1) "Board of Zoning Appeals" means the board established in Bedford County pursuant to Tennessee Code Annotated, Section 13-7-106.

(2) "Building" means any structure built for the support, shelter, or enclosure of persons, chattels, or movable property of any kind; the term includes mobile home. "Building" does not mean any structure used primarily for agricultural purposes.

(3) "Building permit" means a permit for development issued in Bedford County, whether by the county or by any city therein.

(4) "Building inspector" means the person designated by resolution of the governing body of Bedford County, who shall be responsible for ensuring a building or structure does not exceed the square footage paid for at the time of obtaining a certificate of occupancy/certificate of compliance.

(5) "Capital improvement program" means a proposed schedule of further projects, listed in order of construction priority, together with cost estimates and the anticipated means of financing each project. All major projects requiring the expenditure of public funds, over and above the annual local government

operating expenses, for the purchase, construction, or replacement of the physical assets of the community are included.

(6) "Certificate of Occupancy/Certificate of Compliance" means a license for occupancy of a building or structure issued in Bedford County, whether by the county or by any city therein.

(7) "Commercial" means the development of any property for commercial use, except as may be exempted by this act.

(8) "Development" means the construction, building, erection, or improvement to land providing a new building or structure, which provides floor area for residential use.

(9) "Dwelling Unit" means a room or rooms, connected together, constituting a separate, independent housekeeping establishment for owner occupancy, rental or lease, on a daily, weekly, monthly or long-term basis; physically separated from any other room or rooms or dwelling units which may be in the same structure; and containing independent cooking and sleeping facilities.

(10) "Floor Area" means the total of the gross horizontal area of all floors, including basements, cellars or attics, which is heated and/or air conditioned living space, or designed to be finished into heated and/or air conditioned living space at a future date.

(11) "General Plan" means the official statement of the Planning Commission, which sets forth major policies concerning future development of the jurisdictional area and meeting the provisions set in Tennessee Code Annotated, Sections 13-3-301, 13-3-302, and 13-4-102. For purposes of this act only, a general plan may consist solely of the land development plan element which sets out a plan or scheme of future land usage.

(12) "Governing Body" means the County Commission of Bedford County, Tennessee.

(13) "Industrial" means the development of any property for the purpose of manufacturing a product for retail or wholesale distribution.

(14) "Lot" means a designated parcel, tract, or area of land established by plat, subdivision, or otherwise permitted by law, to be used, developed, or built upon.

(15) "Major Street or Road Plan" means the plan adopted by the Planning Commission, pursuant to Tennessee Code Annotated, Sections 13-3-402 and 13-4-302, showing, among other things, the general location, character, and extent of public ways and the removal, location, extension, widening, narrowing, abandonment, or change of use of existing public ways.

(16) "Multi-Family Dwelling" means a building containing two (2) or more dwelling units, including units that are located one over the other.

(17) "Non-residential" means the development of any property for any use other than residential use, such as commercial or industrial, except as may be exempted by this act.

(18) "Person" means any individual, firm, co-partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, or other group or combination acting as a unit, in the plural as well as the singular number.

(19) "Place of Worship" means that portion of a building, owned by a religious institution which has tax-exempt status, which is used for worship services and related functions; provided, however, that a place of worship does not include buildings or portions of buildings which are used for purposes other than for worship and related functions, or which are intended to be leased, rented, or used by persons who do not have tax-exempt status.

(20) "Plat" includes any plat, plan plot, replot or replat where the same creates additional lots.

(21) "Public Building" means a building owned by the State of Tennessee or any agency thereof, a political subdivision of the State of Tennessee, including, but not necessarily limited to counties, cities, school districts and special districts, or the federal government or any agency thereof.

(22) "Public Facility or Facilities" means a physical improvement undertaken by the county or city, including, but not limited to, the following: roads and bridges, parks and recreational facilities, jails and law enforcement facilities, schools, libraries, government buildings, fire stations, sanitary landfills, water, wastewater and drainage projects, airport facilities and other governmental capital improvements benefiting the citizens of the county and/or city or cities.

(23) "Residential" means the development of any property for a dwelling unit or units.

(24) "Single-Family Dwelling" means a building containing one dwelling unit and that is not attached to any other dwelling by any means and is surrounded by open space or yards.

(25) "Subdivision Regulations" means the regulations adopted by the Bedford County Regional Planning Commission on November 20, 1997, as amended, pursuant to state statutory authorization, by which the county regulates the subdivision of land.

(26) "Townhouse" means a single-family dwelling constructed in a series or group of attached units with property lines separating each unit.

(27) "Zoning Resolution" means the regulations adopted by the Bedford County Commission pursuant to the state statutory authorization on January 14, 1998, as amended, by which the county regulates the zoning, use, and development of property.

SECTION 3. It is the intent and purpose of this act to authorize Bedford County to impose a tax on new development in the county, payable at the time of issuance of a building permit, or certificate of occupancy, so as to ensure and require that the persons responsible for new development share in the burdens of growth by paying their fair share for the cost of new and expanded public facilities made necessary by such development.

SECTION 4. Engaging in the act of new development in Bedford County, except as provided in Section 6 herein, is declared to be a privilege upon which Bedford County

may, by resolution of the governing body of Bedford County, levy a tax at the rate set forth in Section 7.

SECTION 5. The governing body shall, by resolution, adopt administrative guidelines, procedures, regulations, and forms necessary to properly implement, administer, and enforce the provisions of this act.

SECTION 6. This act shall not apply to the development of:

(1) Non-residential buildings or structures; mobile home courts are considered residential, as are buildings or structures that serve a dual purpose for both residential and commercial use;

(2) Public buildings;

(3) Places of worship;

(4) Barns, outbuildings, or accessory structures used for agricultural or residential;

(5) Replacement structures for previously existing structures destroyed by fire or other disasters; but only if replaced within one (1) year of the loss;

(6) Structures or lots owned by a non-profit organization that is a qualified 501(c)(3) corporation under the United States Internal Revenue Code; and

(7) Additions to existing single-family dwellings.

SECTION 7. For the exercise of the privilege described herein, Bedford County may impose a tax on new development not to exceed one dollar (\$1.00) per gross square foot of new residential development. The amount of this tax shall be approved by not less than a two-thirds (2/3) majority vote of the governing body of Bedford County.

SECTION 8. Proceeds from the tax levied herein shall be applied to capital projects, including, but not limited to, the related debt service for such improvements or capital projects, in the general fund, school fund, special revenue funds, debt service fund or other capital project funds as designated by resolution of the Bedford County legislative body.

SECTION 9. The tax established in this act shall be collected at the time of application for a building permit for development as herein defined or, if a building permit

is not required, at the time of application for a certificate of occupancy/certificate of compliance by the county or city official duly authorized in such jurisdiction to issue building permits or certificates of occupancy or compliance. The revenue collected from this tax shall be collected by the county building official, or other responsible official, and the proceeds deposited with the County Trustee. If the building permit or certificate of occupancy/compliance is issued by a city, the city shall, before issuance of the building permit, require evidence by a valid certificate executed by the county building official that the full amount of the tax due the county is paid. No building permit for development as herein defined, or certificate of occupancy/compliance if no building permit is required, shall be issued in Bedford County, unless the tax has been paid in full to the county. The issuance of a building permit by any city official, without a certificate from the county that the tax has been paid, shall render the city liable to the county for the sum or sums, that would have been collected by the county had the certificate of tax paid been required by the city.

SECTION 10. The authority to impose this privilege tax on new development in Bedford County is in addition to all other authority to impose taxes, fees, assessments, or other revenue-raising or land development regulatory measures or charges granted either by the private or public acts of the State of Tennessee and the imposition of such tax, in addition to any other authorized tax, fee, assessment, regulatory measure or charge, shall not be deemed to constitute double taxation.

SECTION 11.

(a) Any person aggrieved by the decision of the county building official or other responsible official concerning any aspect of this act may obtain review of the official's decision in the following manner:

- (1) By payment of the disputed amount to Bedford County and by notifying the official that he payment is made under protest.
- (2) By requesting an appeal of the decision of the official in written form within ten (10) days of the protest and payment.

(b) The Bedford County Board of Zoning Appeals shall hear all appeals. Hearings shall be scheduled within thirty (30) days of the written request for appeal, or at the next regular meeting of the Board of Zoning Appeals, whichever is later.

(c) The Board of Zoning Appeals shall render a decision on all appeals within thirty (30) days of the hearing date, unless the hearing is continued from time to time with a majority vote of the Board of Zoning Appeals for further information.

(d) The Board of Zoning Appeals shall act as a quasi-judicial body, whose purpose is to determine the intent of this act, its applicability to the appellant, and to rule upon the interpretation of the official. The Board shall not be bound by formal rules of evidence applicable to the various courts of this state.

(e) Hearings before the Board of Zoning Appeals shall proceed as follows:

(1) The county building official shall explain his or her ruling and the reasons for the ruling.

(2) The appellant shall explain his or her reasons for appealing the ruling.

(3) The Board of Zoning Appeals may request further information from any county official, but not limited to the County Mayor, County Commissioners, Committee members, the County Attorney, or the County planning staff. The Board shall not have the power of subpoena.

(f) The Board of Zoning Appeals shall deliberate and render a decision by a majority vote. Decisions shall be reduced to writing, and copies shall be sent to all parties and shall become a part of the minutes of the Board. Decisions of the Board of Zoning Appeals shall be final, except that either the building official or the person aggrieved may seek review of the Board's action by certiorari and supersedeas to the Chancery Court of Bedford County, Tennessee, provided, that an application to the court is made within sixty (60) days of the written decision of the Board.

SECTION 12. The provisions of this act shall in no manner repeal, modify, or interfere with the authority granted by any other public or private law applicable to Bedford County. This act shall be deemed to create an additional an alternative instrument for Bedford County to impose and collect taxes for the purpose of providing public facilities made necessary by the new development in the county and or any of its cities.

SECTION 13. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 14. This act shall have no effect unless it is approved by two-thirds (2/3) vote of the county legislative body of Bedford County. Its approval or non-approval shall be proclaimed by the Presiding Officer of the county legislative body and certified by such officer to the Secretary of State.

SECTION 15. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming law, the public welfare requiring it. For all other purposes, it shall become effective upon being approved as provided in Section 14.